

UNITED DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Hampden, ss

Civil Action No. 04 30172 KPN

ROBERT DADE,

Plaintiff

v.

BOLAND BUILDERS, INC.,
THOMAS BOLAND, STUART HONES
and MARY ROSE JONES,

Defendants

DEPOSITION OF: ROBERT DADE, taken before
MYREL J. WILLIAMS, Notary Public and Court
Reporter, pursuant to the applicable
Massachusetts Rules of Civil Procedure, at the
LAW OFFICES OF ROBINSON DONOVAN, P.C., 1500 Main
Street, Springfield, Massachusetts, on January
20, 2006.

Myrel J. Williams
Certified Shorthand Reporter -1393S95

INDEX

WITNESS

Robert Dade

DIRECT CROSS REDIRECT RECROSS

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* By Ms. Pelletier
** By Mr. Rider
***By Mr. Cvejjanovich

EXHIBITS:

Exhibit 1, document..... 80
Exhibit 2, photographs..... 93

STIPULATIONS

It is agreed by and between the parties that
all objections, except objections as to the form
of the questions, and all motions to strike
unresponsive answers are reserved and may be
raised at the time of trial for the first time.

It is further agreed by and between the
parties that the sealing, and the notification to
all parties of the receipt of the original
deposition transcript is hereby waived.

ROBERT DADE, Deponent, having first
been duly sworn and identified, deposes and
states as follows:

MS. PELLETIER: Before we begin the
deposition, for the record, we were advised
by plaintiff's counsel that he has no form of
identification whatsoever on him. He left
his driver's license at home and his wallet
is not on him either. Plaintiff's counsel
has just met him for the first time today so
cannot attest to the fact he is, in fact, the

1 APPEARANCES:

2

3 FOR THE DEFENDANT:

4 O'CONNELL, FLAHERTY & ATTMORE

5 1350 Main Street

6 Springfield, MA 01103

7 (413) 747-1773

8 BY: JOHN A. CVEJANOVICH, ESQ.

9

10 FOR THE PLAINTIFF:

11 ROBINSON DONOVAN, P.C.

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13 Springfield, MA 01115

14 (413) 732-2301

15 BY: NANCY F. PELLETIER, ESQ.

16

17 FOR THE PLAINTIFF:

18 LAW OFFICES OF JOHN N. WHITE

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20 Springfield, MA 01105

21 (413) 788-0200

22 BY: DANIEL H. RIDER, ESQ.

23

24 ALSO PRESENT: Shawn Breault, Liberty Mutual

1 mean? What is the best thing -- I have more
2 knowledge, so I kind of like -- we do work
3 together. It's tough to explain, I guess.

4 Q. Are you aware of any written
5 contracts that relate to this project?

6 A. How do you mean?

7 Q. Do you know what a contract is?

8 A. I know what a contract is, yes.

9 Q. Are you aware of any written
10 contracts that relate to this project?

11 A. No.

12 Q. Do you claim there was a written
13 contract for the installation of the roof?

14 A. Yes, I actually saw it. The
15 Watstein and Watstein over in -- let's see, how
16 do I say that? He needed a copy of it. I got a
17 copy from Seamless Metal Roofing and I brought a
18 copy to Watstein and Watstein and that is when I
19 saw the contract.

20 Q. So the contract that existed with
21 regard to the roof was between Seamless Metal
22 Roofing and whom?

23 A. I believe it was Tom Boland, I'm not
24 exactly sure. It's been awhile.

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1 would be ready for you to work on?

2 A. My father handled that part.

3 Q. Your father would tell you it was
4 time to go?

5 A. He would say, Bob, you have to bend
6 up this amount of drip edge to get started. I
7 would bend it up and bring it out with a roll and
8 the machine and start the job. He would give me
9 the address. Some times he would drive out there
10 with me and some times he just gave me the
11 address.

12 Q. Other than the conversation that you
13 had out at the garage building with Mr. Boland,
14 did you have any other conversations before you
15 began your work on the garage building?

16 A. Not that I recall, no.

17 Q. Are you aware of whether Mr. Moffit
18 had any kind of conversations with Mr. Boland or
19 anyone from Boland Builders before you began your
20 work on the garage building?

21 A. I don't know that answer.

22 Q. What was the condition of the house
23 as opposed to the garage building when you first
24 arrived on the site?

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1 Q. To your knowledge at any point did
2 anybody tell either Boland builders or the owner
3 of the property that it would not be Seamless
4 Metal Roofing but you that would be performing
5 the work on this job, correct?

6 A. As far as I know.

7 Q. You have the same name as your
8 father, is that fair to state?

9 A. Our middle initials are different
10 his is Ernest and mine is Joseph.

11 Q. But you're both named Robert Dade?

12 A. Yes.

13 Q. Is the contract that you saw signed
14 be Robert Dade?

15 A. I don't recall. It's been a couple
16 of years.

17 Q. Is that the only contract that
18 you're aware of that relates to this project?

19 A. Yes.

20 Q. How did you know when it was that it
21 was time for you to go out to the site?

22 A. When I finished the job beforehand,
23 which I don't remember when that was.

24 Q. How did you know that the building

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1 A. Well, they had the main building and
2 they put an addition to the left of it, if you're
3 looking at it from the garage. It was new
4 construction obviously. They had tarpaper on the
5 roof. That is as much as I can explain it.

6 Q. It's your testimony that the
7 tarpaper was on the roof the first day you were
8 on the site?

9 A. I believe so. It was either that or
10 the next morning.

11 Q. The next morning would be the day of
12 the incident?

13 A. Yes.

14 Q. Did you have any discussions with
15 Mr. Boland at any time regarding when it was that
16 you were supposed to begin your work on what
17 you're calling the main building?

18 A. Yes.

19 Q. What did he tell you?

20 A. I went up on the roof, and I was
21 talking to him. I believe if you're looking out
22 from the garage, I would be the closest to the
23 garage, the front of the house to the left. I
24 was standing there talking to him and discussing

40

1 the roof. I said I would measure the drip edge
2 to get the final amount. My father gives me the
3 amounts to start with. I go measure how much
4 more I need. He said he had skylights going in
5 and I said, okay, that's no problem. He asked me
6 about the flashings. I said the flashing is no
7 problem, we bend our own flashing, just when you
8 put the skylights in, we'll flash accordingly and
9 put the roof on. He pointed towards the area on
10 the flat roof on the other side. He never
11 mentioned he had the wood cut out and it was
12 papered at the time so I had no knowledge that
13 those holes were there. That is basically it.

14 Q. The question that I asked you sir
15 was about a conversation as to when you would
16 begin your work on that building?

17 A. I'm sorry, I got sidetracked. I
18 believe that was a Friday, if I'm remembering
19 right, it would be the following Monday.

20 Q. So he told you that you would not
21 begin your work until the following Monday?

22 A. No, he asked me when would you be
23 starting the main roof and I told him on Monday.

24 Q. What was the date Monday?

4 1

1 A. I don't recall.

2 Q. So your testimony is that --

3 A. That would be the 10th.

4 Q. So you told Mr. Boland that you
5 would not begin your work until the 10th of
6 September 2001?

7 A. Right.

8 Q. You told him that prior to your
9 fall?

10 A. Yes.

11 Q. You told him that while you were
12 standing on the roof?

13 A. Yes.

14 Q. After he told you that there were
15 skylights going in?

16 A. Yes.

17 Q. You believe that that conversation
18 took place on a Friday?

19 A. Yes, I believe so.

20 Q. Was that the same day you claim you
21 fell?

22 A. Yes, it was the same day I fell,
23 that's for sure.

24 Q. Let's go back and talk about the day

4 2

1 that you fell beginning with your arrival on the
2 site, and that is September 7th 2001, correct?

3 A. Yes.

4 Q. Tell me everything you can recall
5 happening from the time you arrived on September
6 7th 2001 until the time of your fall?

7 A. We arrived in the morning. We had
8 the top part of the barn or garage to do because
9 it's shaped with the sides up like that and the
10 top like that, we had to finish the top. At the
11 time we got finished with the top of it, or I
12 think before we finished, I went up to talk to
13 Tom about 10 o'clock in the morning or something
14 like that. I talked to him. I went back down.
15 We finished that up and then I had to get the
16 amount of drip edge I need. I went to talk to
17 Mike Moffit.

18 Q. When you went up to talk to Tom,
19 where did you go?

20 A. I went on the roof. That is where
21 he was working with -- I think another guy was
22 working with him.

23 Q. Is that the conversation that you
24 just described?

4 3

1 A. Yes.

2 Q. So you went up on the roof

3 approximately 10 o'clock in the morning. You had
4 a conversation with Mr. Boland and he advised you
5 there were skylights going in that roof and then
6 you came off the roof and you went back to the
7 barn area?

8 A. Yes.

9 Q. What happened after that?

10 A. Well, we finished up the barn and
11 then Mike Moffit and I went back up to the main
12 building and we began to measure the drip edge so
13 we'd get the right amount.

14 Q. Who was there besides you and Mike
15 Moffit?

16 A. Mickey V.

17 MR. CVEJANOVICH: For the record,
18 you mean on the job or on the roof where he
19 fell.

20 MS. PELLETIER: No one said he was
21 on the roof at the time he was measuring the
22 drip edge.

23 THE WITNESS: Well, I was on -- you
24 have to be on -- you don't have to, but we do

4 4

1 it on the roof to get a more accurate
2 footage.

3 MR. CVEJANOVICH: Generally who's
4 on the job site you're asking?

5 Q. (By Ms. Pelletier) I'm asking who
6 was doing the measurement?

7 A. Mike Moffit and I.

8 Q. Where was Mr. Boland?

9 A. He was not on the job site, he left.

10 Q. So the last conversation that you
11 had with Mr. Boland prior to you going back on
12 the roof was that you were going to begin the
13 roof on September 10th?

14 A. Correct.

15 Q. Mr. Boland was not there when you
16 decided to go back on the roof after that
17 conversation, correct?

18 A. Right.

19 Q. He had no knowledge you went back up
20 on the roof at that time, correct?

21 A. I'm not sure if I told him I needed
22 to get the footage of the drip edge or not. I
23 might have. I might not have.

24 Q. He certainly wasn't there?

4 5

1 A. He certainly was not there.

2 Q. Do you know where he was?

3 A. No.

4 Q. Did you have any conversations with
5 Mr. Boland at any time while you were inside of
6 the building?

7 A. No, not to my knowledge. I don't
8 even think I went inside the building but maybe
9 once.

10 Q. What did you do when you were inside
11 the building?

12 A. I'm not even sure. I'm not even
13 sure if I went inside the building. I know I was
14 inside when I fell through it.

15 Q. You were telling me about being back
16 on the roof with Mike Moffit measuring the
17 flashing?

18 A. Yes, drip edge, um-hum.

19 Q. Did you ever have any conversations
20 with Mr. Boland about the appropriate type of
21 flashing to use when installing skylights on a
22 roof that was going to be a metal roof?

23 A. Yeah, that was part of our
24 discussion. I said we would bend our own. They

4 6

1 have kits that come with the skylights, but that
2 is for roofing shingles. We build a full length
3 instead of having all these pieces. That is
4 basically how that works.

5 Q. Did you ever have any conversations
6 with Mr. Boland while inside the building?

7 A. No.

8 Q. Did you ever have any conversation
9 inside the building while Mr. Stuart Jones was
10 present?

11 A. I'm not sure. I remember talking to
12 him, but I'm not sure if it was inside the
13 building or not.

14 Q. Do you have any recollection of
15 having the skylights pointed out to you while you
16 were inside the building?

17 A. No, not at all. If I would have
18 seen -- can I go on?

19 Q. Sure.

20 A. If I would have seen the skylights
21 were papered like that from underneath, I would
22 have asked him to cut them out or I would have
23 plywood them myself because it's just a safety
24 thing, you know.

4 7

1 Q. It's a safety thing for who?

2 A. Anybody, his workers, me, anybody
3 that goes up on that roof, even Tom Boland
4 himself. You can call that like a trap like they
5 used to do with bears and lions. They dug a hole
6 and camouflaged it and they walked across and
7 fell through.

8 Q. You agree with me, sir, you knew
9 there were skylights going in the roof if you
10 didn't know there were holes there, right?

11 A. I knew there were skylights. I
12 didn't know there were holes.

13 Q. You knew there were skylights when
14 you went back on the roof a second time on
15 September 7, 2001?

16 A. Yes.

17 Q. What, if any, steps did you take to
18 determine whether or not the holes had been cut
19 out?

20 A. I didn't see any reason for anyone
21 to cut a hole before they put the skylight in.

22 Q. That's not my question. What, if
23 anything, did you do to determine that the holes
24 had been cut out?

4 8

1 A. What did I do, nothing.
 2 Q. What did Mr. Moffit do?
 3 A. Nothing.
 4 Q. Was Mr. Moffit present when Mr.
 5 Boland advised you that there was going to be
 6 skylights in the building?
 7 A. No.
 8 Q. It was just you and Mr. Boland?
 9 A. Yes.
 10 Q. Did you tell Mr. Moffit before you
 11 went up on the roof that there were going to be
 12 skylights?
 13 A. Yes.
 14 Q. He didn't do anything to figure out
 15 if they'd been cut out yet?
 16 A. No.
 17 Q. To your knowledge was Mr. Moffit
 18 ever on the inside of the building?
 19 A. I'm not sure.
 20 Q. Did you request permission of
 21 anybody prior to going on the roof the second
 22 time?
 23 A. I don't believe I need permission
 24 to --

4 9

1 Q. That's not my question, sir. Did
 2 you request permission to anyone --
 3 A. No.
 4 Q. You need to wait until I complete
 5 the question. Did you request permission of
 6 anyone prior to going on the roof a second time?
 7 A. No.
 8 Q. Did you advise anyone on the site
 9 you were going on the roof a second time?
 10 A. No.
 11 Q. What happened when you went on the
 12 roof the second time?
 13 A. We began to measure the drip edge on
 14 the far side of the building, the furthest away
 15 from the garage. We started to come this way.
 16 One guy holds the ruler on one end, we rule it
 17 out, take the measure. We got to the other
 18 side, started to walk across with the ruler, and
 19 I was falling through.
 20 Q. Do you remember where you landed?
 21 A. I landed on the plywood, I believe
 22 that would be the kitchen.
 23 Q. Do you have any recollection of
 24 having ever been in that kitchen before?

5 0

1 A. No.
 2 Q. How did you know it was the kitchen?
 3 A. I was told afterwards.
 4 Q. By whom?
 5 A. I don't recall.
 6 Q. What happened when you landed?
 7 A. Well, I tried -- when I was falling
 8 through, I knew what was going on right away. I
 9 knew this guy cut the skylights out. So it was
 10 all black and then I could see something, like
 11 this big silver thing. I don't know if it was a
 12 vacuum or whatever. I tried to kick it out of my
 13 way. I think I landed feet first and then I went
 14 to my rear. I hit my nose on the way through so
 15 I was bleeding through the nose. The homeowner,
 16 the wife, she gave me a rag for my nose. I held
 17 that and I laid there. I could tell -- I could
 18 feel the pain in my foot. They called the
 19 ambulance and the ambulance came and carried me
 20 to the house and put me in the ambulance and
 21 brought me to Noble Hospital.
 22 Q. Did you have any conversations with
 23 Mrs. Jones after you fell through the roof?
 24 A. Yes.

5 1

1 Q. What did you say --
 2 A. Yes, I told her -- I said, I can't
 3 believe they cut the holes out. I kept saying
 4 over and over. She said, I know, I know, I don't
 5 know why he did that. I don't know why he did
 6 that.
 7 Q. Mrs. Jones said that?
 8 A. Yes, I remember that very
 9 distinctly.
 10 Q. Who else was present when that
 11 conversation allegedly took place?
 12 A. I believe Mikey V was there. He
 13 heard me fall through the roof. He was on the
 14 bar. He said he was there like in no time.
 15 That is what he told me.
 16 Q. When did you talk to him about it?
 17 A. I'm not sure if it was in the
 18 hospital or after.
 19 Q. Did you have any conversations with
 20 Mr. Jones?
 21 A. Not that I recall.
 22 Q. Do you recall ever telling Mrs.
 23 Jones that you forgot that the skylights had been
 24 cut out?

5 2